

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation Against:

SUSAN M. FOSS
3333 El Encanto Court, #42
Bakersfield, CA 93301
Registered Nursing License No. 333594

Respondent

Case No. 95-79

OAH No. L-2009040322

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 18, 2009.

IT IS SO ORDERED November 18, 2009.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Petition to Revoke
12 Probation Against:

13 **SUSAN M. FOSS**
14 **3333 El Encanto Court, #42**
Bakersfield, CA 93301

15 **Registered Nursing License No. 333594**

16 Respondent.
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Case No. 95-79

OAH No. L-2009040322

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

20 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties in this
21 proceeding that the following matters are true:

22 **PARTIES**

23 1. Heidi J. Goodman ("Complainant") brings this Accusation solely in her official
24 capacity as the Assistant Executive Officer of the Board of Registered Nursing ("Board"),
25 Department of Consumer Affairs. Ms. Goodman is successor to Ruth Ann Terry, M.P.H., R.N.
26 former Executive Officer of the Board of Registered Nursing who brought this action solely in
27 her official capacity. Complainant is represented in this matter by Edmund G. Brown Jr.,
28 Attorney General of the State of California, by Gillian E. Friedman, Deputy Attorney General.

1 2. Susan M. Foss (Respondent) is representing herself in this proceeding and has chosen
2 not to exercise her right to be represented by counsel.

3 3. On or about September 30, 1981, the Board of Registered Nursing issued Registered
4 Nursing License No. 333594 to Susan M. Foss. The Registered Nursing License was in full force
5 and effect at all times relevant to the charges brought in Petition to Revoke Probation No. 95-79
6 and will expired on June 30, 2009.

7 JURISDICTION

8 4. Petition to Revoke Probation No. 95-79 was filed before the Board of Registered
9 Nursing, and is currently pending against Respondent. The Petition to Revoke Probation and all
10 other statutorily required documents were properly served on Respondent on September 9, 2008.
11 Respondent timely filed her Notice of Defense contesting the Petition to Revoke Probation. A
12 copy of Petition to Revoke Probation No. 95-79 is attached as exhibit A and incorporated herein
13 by reference.

14 ADVISEMENT AND WAIVERS

15 5. Respondent has carefully read, and understands the charges and allegations in
16 Petition to Revoke Probation No. 95-79. Respondent also has carefully read, and understands the
17 effects of this Stipulated Surrender of License and Order.

18 6. Respondent is fully aware of her legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Petition to Revoke Probation; the right to be
20 represented by counsel, at her own expense; the right to confront and cross-examine the witnesses
21 against her; the right to present evidence and to testify on her own behalf; the right to the issuance
22 of subpoenas to compel the attendance of witnesses and the production of documents; the right to
23 reconsideration and court review of an adverse decision; and all other rights accorded by the
24 California Administrative Procedure Act and other applicable laws.

25 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
26 every right set forth above.

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Petition to
3 Revoke Probation No. 95-79, agrees that cause exists for discipline and hereby surrenders her
4 Registered Nursing License No. 333594 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation she enables the Board of
6 Registered Nursing to issue an order accepting the surrender of her Registered Nursing License
7 without further process.

8 RESERVATION

9 10. The admissions made by Respondent herein are only for the purposes of this
10 proceeding, or any other proceedings in which the Board of Registered Nursing or other
11 professional licensing agency is involved, and shall not be admissible in any other criminal or
12 civil proceeding.

13 CONTINGENCY

14 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
15 License and Order, including facsimile signatures thereto, shall have the same force and effect as
16 the originals.

17 12. In consideration of the foregoing admissions and stipulations, the parties agree that
18 the Board of Registered Nursing may, without further notice or formal proceeding, issue and
19 enter the following Order:

20 ORDER

21 IT IS HEREBY ORDERED that Registered Nursing License No. 333594, issued to
22 Respondent Susan M. Foss is surrendered and accepted by the Board of Registered Nursing,
23 Department of Consumer Affairs.

24 13. The surrender of Respondent's Registered Nursing License and the acceptance of the
25 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
26 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
27 license history with the Board.
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1 14. Respondent shall lose all rights and privileges as a registered nurse in California as of
2 the effective date of the Board of Registered Nursing's Decision and Order.

3 15. Respondent shall cause to be delivered to the Board both her wall license certificate
4 and, if one was issued, pocket license on or before the effective date of the Decision and Order.

5 16. Respondent fully understands and agrees that if she ever files an application for
6 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
7 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
8 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the
9 charges and allegations contained in Petition to Revoke Probation No. 95-79 shall be deemed to
10 be true, correct and admitted by Respondent when the Board of Registered Nursing determines
11 whether to grant or deny the petition.

12 17. Should Respondent ever apply or reapply for a new license or certification, or petition
13 for reinstatement of a license, by any other health care licensing agency in the State of California,
14 all of the charges and allegations contained in Petition to Revoke Probation, No. 95-79 shall be
15 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
16 Issues or any other proceeding seeking to deny or restrict licensure.

17 18. Respondent shall not apply for licensure or petition for reinstatement for one (1) year
18 from the effective date of the Board of Registered Nursing's Decision and Order.

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DATED:

Stipulated Surrender of License (L-2009040322)

Exhibit A

Petition to Revoke Probation No. 95-79

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN, State Bar No. 169207
Deputy Attorney General
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6

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
13 Against:

Case No. 95-79

14 SUSAN M. FOSS
aka SUSAN M. KIRSCHENBAUM
15 3333 El Encanto Court, #42
Bakersfield, CA 93301

**PETITION TO REVOKE
PROBATION**

16 Registered Nursing License No. 333594

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
20 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
21 Registered Nursing, Department of Consumer Affairs.

22 2. On or about September 30, 1981, the Board of Registered Nursing (Board)
23 issued Registered Nursing License No. 333594 to Susan M. Foss (Respondent). The Registered
24 Nursing License will expire on June 30, 2009, unless renewed.

25 3. On May 21, 1998, pursuant to the Stipulated Settlement and Disciplinary
26 Order adopted by the Board of Registered Nursing in the disciplinary action entitled *In the*
27 *Matter of Accusation Against Susan M. Foss*, Case No. 95-79, the Board revoked Respondent's
28 Registered Nurse License effective June 20, 1998. The revocation was stayed and Respondent's

1 license was placed on probation for a period of three (3) years commencing on September 25,
2 2005 with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
3 incorporated by reference.

4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board, under the
6 authority of the following laws. All section references are to the Business and Professions Code
7 (Code) unless otherwise indicated.

8 STATUTORY PROVISIONS

9 5. Section 2750 of the Code provides, in pertinent part, that the Board may
10 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
11 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

12 6. Section 2764 of the Code provides, in pertinent part, that the expiration of
13 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
14 against the licensee or to render a decision imposing discipline on the license. Under section
15 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
16 the expiration.

17 FIRST CAUSE TO REVOKE PROBATION

18 **(Failure to Comply with the Board's Probation Program)**

19 7. At all times after the effective date of Respondent's probation, Probation
20 Condition Number 3 stated:

21 Respondent shall fully comply with the terms and conditions of the Probation
22 Program established by the Board and cooperate with representatives of the Board
23 in its monitoring and investigation of the respondent's compliance with the
24 Program. Respondent shall inform the Board in writing within no more than 15
25 days of any address change and shall at all times maintain an active, current
26 licensure status with the Board, including during any period of suspension.

25 8. Respondent's probation is subject to revocation because she failed to
26 comply with Probation Condition Numbers 7 and 11, referenced below, in that she failed to
27 engage in the practice of professional nursing in California for a minimum of 24 hours per week
28 for six continuous months and is in violation of probation.

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1 registered nursing as required by the terms of her probation, as set forth more fully above.


2 Accordingly, the Board has filed a petition to revoke probation, which shall extend the period of
3 probation until the matter has been acted on by the Board.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged, and that following the hearing, the Board issue a decision:

- 7 1. Revoking the probation that was granted by the Board of Registered
8 Nursing in Case No. 95-79 and imposing the disciplinary order that was stayed thereby revoking
9 Registered Nursing License No. 333594 issued to Respondent;
- 10 2. Revoking or suspending Registered Nursing License No. 333594, issued to
11 Respondent;
- 12 3. Taking such other and further action as deemed necessary and proper.
13

14 DATED: September 8, 2008

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16 
17 RUTH ANN TERRY, M.P.H., R.N.
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
21 State of California
22 Complainant
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1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 EARL R. PLOWMAN,
Deputy Attorney General, State Bar No. 54339
3 Department of Justice
300 South Spring Street
4 Los Angeles, California 90013
Telephone: (213) 897-2536

5 Attorneys for Complainant
6
7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation)
11 Against:)

NO. 95-79

12 SUSAN M. FOSS, RN)
aka SUSAN M. KIRSCHENBAUM)
13 14616 Coahoma Canyon Road)
Bakersfield, CA 93306)

STIPULATION IN
SETTLEMENT OF ACCUSATION
AND DECISION

14 Registered Nurse License No.)
15 333594)

16 Respondent.
17

18 In the interest of a prompt and speedy settlement of
19 this matter, consistent with the public interest and the
20 responsibilities of the Board of Registered Nursing, an agency of
21 the Department of Consumer Affairs ("Board") the parties, by and
22 through their respective counsel submit this Stipulation and
23 Decision to the Board for its approval and adoption as the final
24 disposition of the Accusation against Respondent which is
25 currently pending.

26 The parties stipulate the following is true:

27 1. An Accusation, No. 95-79, was filed by Complainant

1 Ruth Ann Terry, R.N., M.P.H. in her official capacity and not
2 otherwise as Executive Officer of the Board of Registered
3 Nursing, and is currently pending against SUSAN M. FOSS, R.N. aka
4 SUSAN M. KIRSCHENBAUM ("respondent"), before the Board. The
5 Accusation, together with all other statutorily required
6 documents, was duly served on the respondent at her address of
7 record on or about September 22, 1995, and respondent by and
8 through her counsel filed her Notice of Defense (contesting the
9 Accusation) on or about October 5, 1995. A copy of Accusation
10 No. 95-79 is attached as Attachment "A" and incorporated by
11 reference as if fully set forth.

12 2. At all times relevant herein, respondent has been
13 licensed by the Board of Registered Nursing under Registered
14 Nurse License No. 333594.

15 3. Respondent has retained and is currently
16 represented by Bruce F. Bunker, Esq. who is of counsel to the
17 firm of Klein, Wegis, DeNatale & Goldner, a limited law
18 partnership, and she has personally counseled wit Bruce F. Bunker
19 Esq. in this matter. Respondent has fully and completely
20 discussed with her counsel the effects of this stipulation.

21 4. Complainant herein is represented by the Attorney
22 General of the State of California, and individually by Earl R.
23 Plowman, Deputy Attorney General.

24 5. Respondent understands the nature of the charges
25 alleged in the Accusation and that the charges and allegations
26 constitute cause for imposing discipline upon her license to
27 practice as a Registered Nurse. Respondent is fully aware of her

1 right to a hearing on the charges and allegations contained in
2 said Accusation; her right to petition for reconsideration of any
3 decision rendered which is adverse to the; her right to appeal to
4 the courts, and all other rights accorded pursuant to the
5 California Business and Professions Code and Government Code and
6 freely and voluntarily waives such rights and agrees that the
7 Board may adjudicate the pending accusation pursuant to the
8 instant stipulation.

9 6. Respondent admits the truth of each and every
10 allegation of the Accusation No. 95-79, and agrees that
11 respondent has thereby subjected her license to discipline.
12 Respondent agrees to the Board's imposition of penalty as set out
13 in the Order below.

14 7. Admissions made by respondent herein are for
15 purposes of this proceeding, for any other disciplinary
16 proceedings by the Board, and for any petition for reinstatement,
17 reduction of penalty, or application for relicensure, and shall
18 have no force or effect in any other case or proceeding. In the
19 event this settlement is not adopted by the Board, the instant
20 stipulation will not become effective and may not be used for any
21 purpose.

22 8. In consideration of the foregoing stipulations,
23 admissions, waivers and findings, the parties agree that the
24 Board shall, without further notice of formal proceeding, issue
25 and enter an Order as follows:

ORDER

A. IT IS HEREBY ORDERED that Registered Nurse License number 333594 issued to SUSAN M. FOSS aka KIRSCHENBAUM is revoked. However, the order of revocation respondent's license is hereby stayed and respondent placed on probation to the Board pursuant to specific terms and conditions as set forth below including that respondent shall first be actually suspended from the practice of nursing until she completes a physical/mental examination by a psychiatrist and/or psychologist approved by the Board and is notified in writing by the Board or its designee that respondent is be able to resume the practice of nursing with safety to the public.

Thereafter, following written permission by the Board or its designee to return to practice, respondent shall be placed on probation for three (3) years on the following terms and conditions:

1. INDEFINITE SUSPENSION PENDING SUCCESSFUL COMPLETION OF PHYSICAL/MENTAL EXAMINATION

a. Indefinite Suspension. As a condition of probation, respondent shall actually be suspended from the practice of nursing until she undergoes a mental health examination, including psychological testing as appropriate, to determine her capability to safely perform the duties of a registered nurse.

b. Nature of Examination The examination shall be performed by a psychiatrist or psychologist approved by the Board or its designee and conducted at respondent's expense; and the

1 examining psychiatrist or psychologist shall submit a written
2 report to the Board or its designee setting forth his/her
3 evaluation of respondent's capability to safely perform as a
4 registered nurse, as well as any recommendations for ongoing
5 treatment, if any. The order of suspension set forth herein
6 shall not be lifted and respondent shall not be permitted to
7 resume the practice of nursing until the examining psychiatrist
8 or psychologist determines that respondent is capable of safely
9 performing the duties of a registered nurse and respondent is
10 notified in writing by the Board or its designee of that fact.

11 c. Further Examinations. In the event respondent
12 does not pass the first examination, she may request and pay for
13 further examinations but in no case may she take the next
14 examination less than 90 days from the date of the preceding
15 examination. Respondent shall provide copies of all previous
16 psychiatric/psychological examinations to the subsequent
17 examiner/evaluator.

18 d. Compliance With Treatment Plan. If it is
19 determined that respondent can resume the practice of nursing
20 under the care and treatment of a psychiatrist or psychologist,
21 the recommended treatment program shall be instituted and
22 followed by the respondent, under the care of a psychiatrist, or
23 psychologist who is acceptable to the Board, with said treating
24 psychiatrist or psychologist providing written reports to the
25 Board on forms provided by the Board on at least a quarterly
26 basis.

27

1 e. Responsibility for Costs All costs for the
2 initial evaluation examination and any subsequent examinations
3 required by this order, together with any program of treatment
4 determined to be necessary for respondent to maintain her ability
5 to practice with safety to the public, shall be the sole
6 responsibility of the respondent.

7 f. Notice to Board by Treating Psychotherapist In
8 addition, the respondent and her treating psychiatrist or
9 psychologist shall agree to a waiver of any claim of
10 psychotherapist or physician-patient privilege in favor of the
11 Board of Registered Nursing to the extent necessary to comply
12 with this order and that respondent's treating psychologist or
13 psychiatrist will notify the Board of Registered Nursing or its
14 designee within twenty-four (24) hours of respondent's failure
15 without excuse, to appear for a scheduled medical appointment or
16 psychotherapy session, or upon receipt of information that
17 respondent has failed to comply with her accepted treatment plan,
18 or otherwise become incapacitated due to physical or mental
19 illness to the degree that she cannot practice as a Registered
20 Nurse with safety to the public.

21 g. Period of Probation Following Return
22 to Practice.

23 Upon respondent actually resuming the practice of
24 nursing following written permission by the Board or its
25 designee, respondent shall commence a period of probation to the
26 Board which shall last for three (3) years pursuant to the
27 following terms and conditions.

1 2. **OBEY ALL LAWS**

2 Respondent shall obey all federal, state and local
3 laws, and all rules and regulations of the Board of Registered
4 Nursing governing the practice of nursing in California. A full
5 and detailed account of any and all violations of law shall be
6 reported by the respondent to the Board in writing within
7 seventy-two (72) hours of occurrence. To permit monitoring of
8 compliance with this term, respondent shall submit completed
9 fingerprint cards and fees within 45 days of the effective date
10 of the decision, unless previously submitted as a part of the
11 licensure application process.

12 3. **COMPLY WITH PROBATION PROGRAM**

13 Respondent shall fully comply with the terms and
14 conditions of the Probation Program established by the Board and
15 cooperate with representatives of the Board in its monitoring and
16 investigation of the respondent's compliance with the Program.
17 Respondent shall inform the Board in writing within no more than
18 15 days of any address change and shall at all times maintain an
19 active, current licensure status with the Board, including during
20 any period of suspension.

21 4. **REPORT IN PERSON**

22 Respondent, during the period of probation, shall
23 report in person at interviews/meetings as directed by the Board
24 or its designated representatives.

25 5. **ABSENCE FROM STATE**

26 Periods of residency or practice outside of California
27 will not apply to the reduction of this probationary term.

1 The respondent must provide written notice to the Board within
2 fifteen (15) days of any change of residence or practice outside
3 the state.

4 6. **SUBMIT WRITTEN REPORTS**

5 Respondent, during the period of probation, shall
6 submit such written reports/declarations and verification of
7 actions under penalty of perjury, as are required. These
8 declarations shall contain statements relative to respondent's
9 compliance with all the terms and conditions of the Board's
10 Probation Program. Respondent shall immediately execute all
11 release of information forms, including releases for medical and
12 mental health treatment records, as may be required by the Board
13 or its representatives.

14 7. **FUNCTION AS A REGISTERED NURSE**

15 Respondent, during the period of probation which will
16 commence upon completion of her mental examination, shall engage
17 in the practice of professional nursing in California for a
18 minimum of 24 hours per week (or as determined by the Board) for
19 6 consecutive months. Per Section 2732 of the Business and
20 Professions Code, no person shall engage in the practice of
21 registered nursing without holding a license which is in an
22 active status.

23 8. **NURSING PRACTICE**

24 The Board shall be informed of and approve of each
25 agency for which respondent provides nursing services prior to
26 respondent's commencement of work. ~~The respondent shall inform~~
27 her employer of the reason for and the terms and conditions of

1 probation and shall provide a copy of the Board's decision and
2 order to her employer and immediate supervisor. The employer
3 shall submit performance evaluations and other reports as
4 requested by the Board. Respondent is also required to notify
5 the Board in writing within seventy-two (72) hours after
6 termination of any nursing employment. Any notification of
7 termination shall contain a full explanation of the circumstances
8 surrounding it.

9 **9. SUPERVISION**

10 The Board shall be informed of and approve of the level
11 of supervision provided to the respondent while he\she is
12 functioning as a registered nurse. The appropriate level of
13 supervision must be approved by the Board prior to commencement
14 of work. Respondent shall practice only under the direct
15 supervision of a registered nurse in good standing (no current
16 discipline) with the Board of Registered Nursing.

17 **10. EMPLOYMENT LIMITATIONS**

18 Respondent may not work for a nurse registry; temporary
19 nurse agency; home care agency; in-house nursing pool; as a
20 nursing supervisor; as a faculty member in an approved school of
21 nursing; or an instructor in a Board approved continuing
22 education program. Respondent must work only on regularly
23 assigned, identified and predetermined worksite(s) with
24 appropriate supervision as approved by the Board.

25 **11. VIOLATION OF PROBATION**

26 If respondent violates probation by failing to comply
27 with her treatment plan or becomes mentally or physically ill to

1 the degree that she cannot practice safely as a Registered Nurse,
2 upon notification of that fact by respondent's treating
3 psychiatrist, the Board may suspend respondent from the practice
4 of nursing at once, pending the filing of an accusation or other
5 petition to terminate or modify probation, through adjudication
6 of said accusation or petition. If respondent violates probation
7 in any other respect, which does not impair the safety of the
8 public, the Board, after giving respondent notice and the
9 opportunity to be heard, may revoke probation and carry out the
10 disciplinary order of revocation that was stayed or issue a new
11 and different order. If an accusation or petition to revoke
12 probation is filed during respondent's probation, or the Attorney
13 General's Office has been requested to prepare an accusation or
14 petition to revoke probation against the respondent's license,
15 the probationary period shall automatically be extended and shall
16 not expire until the accusation or petition has been acted upon
17 by the Board.

18 12. COMPLETION OF PROBATION

19 Respondent's license will be fully restored upon
20 successful completion of probation.

21

22 ADOPTION OF STIPULATION BY
23 BOARD OF REGISTERED NURSING

24 B. The within stipulation shall be subject to the
25 approval of the Board of Registered Nursing. If the Board fails
26 to adopt this stipulation as its Order, the stipulation and the
27 admissions of fact and characterization of issues within it shall

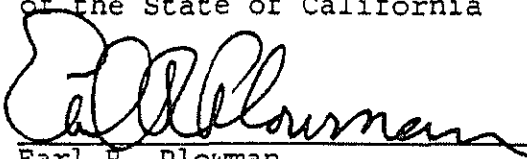
1 be of no force or effect for either party and the pending
2 accusation shall proceed to trial and final decision by the Board
3 without prejudice to either party.

4 SUBMISSION FOR DECISION

5 I concur in the stipulation and order.

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7 DATED: January 15, 1998

8 DANIEL E. LUNGREN, Attorney General
9 of the State of California

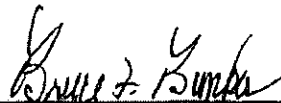
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11 Earl R. Plowman
12 Deputy Attorney General

13 Attorneys for Complainant

14
15 DATED: JANUARY 12, 1998

16 ~~KLEIN, WEGIS, DONATIE & GOLDNER, LLP~~ RFB
17 LAW OFFICES OF BRUCE F. BUNKER, ESQ.

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19 Bruce F. Bunker, Esq.

20 Attorneys for Respondent

21
22 I have carefully read and fully understand the
23 stipulation and order set forth above. I have discussed the
24 terms and conditions set forth in the stipulation and order with
25 my attorney Bruce F. Bunker, Esq. I understand that in signing
26 this stipulation I am waiving my right to a hearing on the
27

1 charges set forth in the Accusation on file in this matter. I
2 further understand that in signing this stipulation the Board
3 shall enter the foregoing order placing certain requirements,
4 restrictions and limitations on my right to practice as a
5 Registered Nurse in the State of California. I understand that
6 among these requirements is one that I must submit to an
7 examination to determine my present fitness to practice by a
8 psychiatrist or psychologist selected by the Board, and that if
9 it is determined to be necessary to assure my safety to the
10 public as a nurse, that I remain under the care of a psychologist
11 or a psychiatrist who will prescribe and monitor medications
12 necessary to my continued ability to practice as a nurse with
13 safety to the public, and who will notify the Board if I fail to
14 comply with his or her instructions. I further understand that
15 the upon such notification by my treating psychiatrist, the Board
16 reserves the right to suspend me from the practice of nursing at
17 once, pending a hearing on a petition to revoke my probation. I
18 agree to be bound by the terms of the forgoing order.

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20 Dated: 1-6-78

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22 Susan M. Foss
23 SUSAN M. FOSS, R.N.

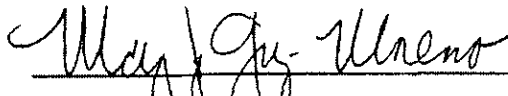
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DECISION AND ORDER
OF THE BOARD

The foregoing Stipulation and Order, in No. 95-79, is hereby adopted as the Order of the California Board of Registered Nursing, Department of Consumer Affairs, State of California. An effective date of June 20, 1998, has been assigned to this Decision and Order.

Made this 21st day of May, 1998.


FOR THE BOARD

ERP:gg

03579110-LA94AD1697

1 DANIEL E. LUNGREN, Attorney General
of the State of California
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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10 In the Matter of the Accusation
Against:

NO. 95-79

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SUSAN M. FOSS aka
SUSAN M. KIRSCHENBAUM
14616 Coahoma Canyon Road
Bakersfield, CA 93306
License No. 333594

ACCUSATION

Respondent.

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Ruth Ann Terry, M.P.H., R.N., for causes for
discipline, alleges:

1. Complainant Ruth Ann Terry, M.P.H., R.N., makes
and files this accusation in her official capacity as Executive
Officer, Board of Registered Nursing, Department of Consumer
Affairs.

2. On September 30, 1981, the Board of Registered
Nursing issued Registered Nurse License Number 333594 to Susan M.
Foss, also known as Susan M. Kirschenbaum. The license was in
full force and effect at all times pertinent herein and has been

1 renewed through June 30, 1997.

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3 3. Under Business and Professions Code section 2750,
4 the Board of Registered Nursing may discipline any licensee,
5 including a licensee holding a temporary or an inactive license,
6 for any reason provided in Article 3 of the Nursing Practice Act.

7 Under Business and Professions Code section 822, the
8 Board of Registered Nursing may revoke or suspend a license,
9 place the licensee on probation, or take such other action in
10 relation to the licensee as it deems proper if it determines that
11 a licensee's ability to practice her profession safely is
12 impaired because she is mentally ill, or physically ill,
13 affecting competency.

14 Under Business and Professions Code section 125.3, the
15 Board of Registered Nursing may request the administrative law
16 judge to direct a licensee found to have committed a violation
17 or violations of the licensing act to pay a sum not to exceed the
18 reasonable costs of the investigation and enforcement of the
19 case.

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21 4. Respondent's psychiatric history appears to extend
22 back to 1979, when she found herself despondent at the age of 25.
23 Because of the depression, she attempted to commit suicide. She
24 was hospitalized, then discharged to the care of her family who
25 indicated that they would watch her closely. In 1981, she was
26 given the diagnosis of Manic Depressive Illness by her treating
27 psychiatrist. In 1981, she began a course of Lithium as

1 prescribed by the psychiatrist, then discontinued the medication
2 when she experienced side effects. By her admission, she had
3 periods of depression every two to three years, following by
4 increased evidence of hypomania.

5 In 1988, she again began taking Lithium. In the summer
6 of 1989, she experienced her second and worst manic episode. She
7 was delusional, grandiose and displayed excessive religiosity.
8 Her thinking was scattered, she was unable to sleep and her
9 activity level was excessive and interfered with normal
10 functioning. During this period of time, she called the White
11 House to tell President Bush that he was doing a good job. She
12 also thought that the McMartin case (a noted Los Angeles child
13 abuse case) was a personal message being sent to her by God about
14 her having been molested as a child. It was during this time
15 that she also began to believe that she had been involved in the
16 deaths of three patients while performing her duties as a nurse.
17 In 1989, she was hospitalized voluntarily under the treatment of
18 Dr. David Sack, a Long Beach psychiatrist.

19 In 1992, she took a considerable amount of time off
20 from work due to a significant episode of mania.

21 On February 23, 1993, while on duty as a registered
22 nurse at the Critical Care Unit, South Bay Hospital, Redondo
23 Beach, California, respondent demonstrated inappropriate
24 behavior. She exhibited a flat affect, glazed and staring look
25 in her face, slow and slurred speech, trembling hands and
26 unstable gait. She appeared very confused, mistaking the supply
27 room for the nursing lounge, saying "they must have moved it (the

1 nursing lounge) since this morning." She had no insight into her
2 level of confusion/disorientation.

3 In late February 1993, respondent began abusing Ativan.
4 On one occasion, after taking five Ativan tablets, she drove a
5 car and sideswiped two other cars. In March, she was
6 hospitalized for bizarre behavior, including hallucinations.
7 Parnate (antidepressant) and Ativan (antianxiety) were
8 administered to assist respondent in controlling her thought
9 processes. In early 1993, respondent was taking Depakote
10 (classified as antiepileptic but used in psychiatric situations),
11 Klonopin (a benzodiazepine), Lithium and Navane (antipsychotic),
12 and Symmetrel (to control side effects from Navane).

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14 4. Respondent has subjected her license to discipline
15 under Business and Professions Code section 822 in that Jeffrey
16 N. Younggren, Ph.D., Diplomate in Clinical Psychology, determined
17 that respondent suffers from Bi-Polar Affective Disorder, a
18 serious psychological disorder that has, in the past, interfered
19 with her ability to function as a nurse. Since the disorder is
20 recurrent in nature, there is risk that she may again experience
21 a period when her judgment is impaired and she cannot function,
22 and could be a danger to the public. Dr. Younggren concluded
23 that her nursing activities should be restricted or monitored,
24 and limited to low stress positions.

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26 WHEREFORE, complainant prays that a hearing be held and
27 that the Board of Registered Nursing make its order:

1 1. Revoking or suspending Registered Nurse License
2 Number 333594, issued to Susan M. Foss, aka Susan M.
3 Kirschenbaum.

4 2. Ordering Susan M. Foss, aka Susan M. Kirschenbaum,
5 to pay to the Board its costs of investigation and enforcement of
6 the case according to proof at the hearing pursuant to Business
7 and Professions Code section 125.3.

8 3. Taking such other and further action as may be
9 deemed proper and appropriate.

10 DATED: 9/6/95

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Ruth Ann Terry
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant

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LA94AD1697

8-21-95(jr)